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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,932	03/05/2002	Toyohiro Kobayashi		7255

7590 05/14/2003
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JAPAN

EXAMINER

MORAN, KATHERINE M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 05/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,932

Applicant(s)

KOBAYASHI, TOYOHIRO

Examiner

Katherine M Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 24 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment of 3/24/03 has been received and reviewed. The amendment cancelled claim 6, amended claims 1-5 and 7, and included a substitute specification which will be entered into the case. The amendment also submitted a proposed drawing correction for Figure 3A.

Drawings

1. The corrected or substitute drawings were received on 3/24/03. These drawings are acceptable for examination purposes.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hujar et al. (Hujar, U.S. 5,557,807) in view of Olajide, Jr. (Olajide, U.S. 5,623,732). Hujar '807 discloses the invention substantially as claimed. Hujar teaches a cap 1 comprising a cloth body, a sunshade cover 23 including a pocket 19 for receiving ice or other coolants. The cover 23 is

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removably connected to the body by a connecting means 22, and is capable of being stored in the hat body. However, Hujar does not teach a connecting means having an axle. Olajide '732 teaches a cap 10 with a cover 28 connected to the cap by snaps 32,34,36. The snaps include male fasteners secured to the cap and female fasteners secured to the hood 28. The male fastener inherently includes an axle portion for connecting to the female portion. It is well known in the art that various types of fastening mechanisms are functionally equivalent. Hook and loop, button and buttonhole, hook and catch, snaps and adhesive are a few examples. These fasteners may be used interchangeably depending upon the desired aesthetic effect. Therefore, it would have been obvious to one of ordinary skill in the art to substitute hook and loop of Hujar with the axle connecting means as taught by Olajide because this allows for easy displacement of the cover according to the movements of the wearer.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hujar in view of Olajide as applied to claim 1 above, and further in view of Benedict (U.S. 5,956,759). Hujar/Olajide discloses the invention substantially as claimed. However, Hujar does not teach cooling material which is a water-absorbing material as a fiber obtained by processing a polymer that contains the sodium salt of polyacrylic acid as a major component, provided to the sunshade cover. Benedict '759 teaches a cap 10 with cooling means 45 composed of a modified acrylic polymer which absorbs large quantities of water, whereby the liquid evaporates to cool the wearer. Further, the specification contains no disclosure of either the critical nature of the claimed polymer or any unexpected results arising from its use, and that as such the claimed polymer is arbitrary and therefore, obvious. Such unsupported material cannot be a basis for patentability since where patentability is said to be based upon the cooling material's

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composition, the applicant must show that the elements of the cooling material are critical. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cover of Hujar with the cooling material which is a water-absorbing fiber obtained by processing a polymer that contains the sodium salt of polyacrylic acid as a major component since this is an inexpensive, commercially available composition which can undergo many cycles of adsorption and evaporation without degradation.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snow (U.S. 4,180,868) in view of Benedict (U.S. 9,956,759). Snow '868 discloses the invention substantially as claimed. Snow teaches a hood comprising a headband 34 with elasticity and a sunshade cover 11 having a cooling material 32 provided at a portion thereof which covers the nape of a wearer's neck when worn. However, Snow does not teach cooling material which is a water-absorbing material as a fiber obtained by processing a polymer that contains the sodium salt of polyacrylic acid as a major component. Benedict '759 teaches a cap 10 with cooling means 45 composed of a modified acrylic polymer which absorbs large quantities of water, whereby the liquid evaporates to cool the wearer. Further, the specification contains no disclosure of either the critical nature of the claimed polymer or any unexpected results arising from its use, and that as such the claimed polymer is arbitrary and therefore, obvious. Such unsupported material cannot be a basis for patentability since where patentability is said to be based upon the cooling material's composition, the applicant must show that the elements of the cooling material are critical. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the cooling material of Snow with the cooling material which is a water-absorbing fiber obtained by processing a polymer that contains the

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sodium salt of polyacrylic acid as a major component since this is an inexpensive, commercially available composition which can undergo many cycles of adsorption and evaporation without degradation.

Response to Arguments

6. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Applicant states that Hujar does not meet the claim limitations with regard to the connecting means. Applicant is reminded that Olajide is relied upon to teach the claimed connecting means. The rest of Applicant's arguments relating to the claims 2-7 hinge upon the deficiencies of Hujar.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications should be directed to Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official fax number for the organization where this application is assigned is (703) 872-9302. The after final fax number for this organization where this application is assigned is (703) 872-9303.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-1148.

Kmm

May 9, 2003


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700